

Notice of Allowability

Application No.

09/836,094

Examiner

Matthew S. Gart

Applicant(s)

HUGHES ET AL.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Interview Sum 12/14/2005 and Ex. Amendment 12/16/2005.
2. ☒ The allowed claim(s) is/are 64-71.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

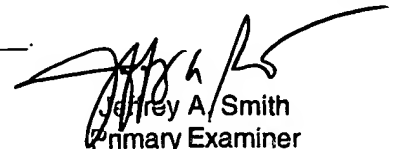
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☒ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____


Jeffrey A. Smith
Primary Examiner

EXAMINER'S AMENDMENT

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on December 14, 2005, Jerry Miller requested an extension of time for 3 MONTH(S) and authorized the Director to charge Deposit Account No. 501267 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jerry Miller on December 14, 2005.

The application has been amended as follows:

In the Title

The title has been changed to read as follows:

--Method for Facilitating a Transaction for Purchasable Content Over an Electronic Network--

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In the Claims

The claims have been amended as follow:

Claims 27-63 have been cancelled per this Examiners Amendment.

New Claims 64-71 have been added as follows:

64. (New) A method for facilitating a transaction for purchasable musical content over an electronic network, the method comprising:

- maintaining a first network server that hosts a first web page on the electronic network to which a consumer may connect;

- transmitting the first web page from the first network server to the consumer over the electronic network, the first web page including a listing of purchasable musical content, the purchasable musical content including two types, the first type comprising downloadable digital musical data and the second type comprising physical musical media, wherein the first network server is enabled to allow the consumer to complete a purchase transaction for the physical musical media, but is not enabled to allow the consumer to complete a purchase transaction for the downloadable digital musical data;

- allowing the consumer to browse the listing of purchasable musical content at the first web page on the electronic network;

- receiving a command at the first network server from the consumer over the electronic network indicating that the consumer has selected certain of the purchasable musical content to purchase;

- determining by the first network server based on the received command if the selected purchasable musical content is either the first type being downloadable digital musical data or the second type being physical musical media;

- executing a computer program stored in the first network server, the computer program comprising instructions for receiving the determination, and if the selected purchasable musical content is determined by the first network server to be the first type

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of purchasable musical content, the computer program automatically linking the consumer to a second network server which maintains custody of the selected downloadable digital musical data and hosts a second web page on the electronic network, the second web server:

- transmitting the second web page to the consumer over the electronic network;

- allowing the consumer to complete a purchase transaction at the second web page for the selected purchasable content, wherein the consumer enters transaction information at the second web page, and after the purchase transaction is complete, the second server transferring custody of the downloadable digital musical data from the second network server through the electronic network to the consumer;

executing a computer program stored in the first network server, the computer program comprising instructions for receiving the determination, and if the selected purchasable musical content is determined by the first network server to be the second type of purchasable music content, the first web server:

- allowing the consumer to complete a purchase transaction at the first web page for the selected purchasable content, wherein the consumer enters transaction information at the first web page, the transaction information including at least the consumer's mailing address, and after the purchase transaction is complete, the first server causing the physical musical media to be physically mailed to the mailing address entered by the consumer.

65. (New) The method of claim 64, further comprising displaying the first web page in a first window and the second page in a second window.

66. (New) The method of claim 65, wherein the first and second windows are displayed simultaneously on a monitor display.

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67. (New) The method of claim 65, wherein the first window is branded by a first entity and the second window is branded by a second entity.

68. (New) The method of claim 65, wherein the second window is activated when the second web page is received by the consumer over the electronic network and the first window is not active when the second window is activated.

69. (New) The method of claim 64, wherein the physical musical media include at least one of optically readable media, magnetically readable media, and mechanically readable media.

70. (New) The method of claim 64, wherein the second web page includes at least one of: (i) registration inputs for registering the consumer; (ii) login inputs for permitting the consumer access to further portions of the second page; (iii) summary information including at least one of a list of the purchasable content selected by the consumer, and remittance information for the purchasable content selected by the consumer; and (iv) billing inputs for receiving information from the consumer concerning a remittance method.

71. (New) The method of claim 70, wherein the summary information and the billing inputs are included on the further portions of the second web page.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Regarding claim 64

The prior art of record neither anticipates nor fairly and reasonably teaches a method for facilitating a transaction for purchasable musical content over an electronic network, the method comprising, *inter alia*, the step of: determining by the first network server based on the received command if the selected purchasable musical content is either the first type being downloadable digital musical data or the second type being physical musical media.

The most remarkable prior art of record is to DigitalRiver (retrieved via waybackmachine.org - <http://web.archive.org/web/19990202101534/digitalriver.com>). Although DigitalRiver discloses a method for providing electronic commerce outsourcing solutions to software publishers and online retailers, DigitalRiver does not disclose determining by the first network server based on the received command if the selected purchasable musical content is either the first type being downloadable digital musical data or the second type being physical musical media. Moreover, none of the prior art of record remedies the deficiencies found in DigitalRiver.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

EXAMINER COMMENTS

The drawings filed on 7/23/2001 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftsperson's Patent Drawing Review," PTO-948. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

CONCLUSION

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wiser et al., U.S. Patent No. 6,385,596B1, May 7, 2002, discloses a secure online music distribution system.

Hurtado et al., Patent No. 6,611,812B2, August 26, 2003, discloses a secure electronic content distribution on CDs and DVDs.

Boesjes, U.S. Patent No. 6,799,165B1, September 28, 2004, discloses an apparatus and methods for inventory, sale, and delivery of digitally transferable goods.

Miller et al., U.S. Patent Application Publication No. 2002/0002496A1, January 3, 2002, discloses a system, method and article of manufacture for enabling product selection across multiple websites.

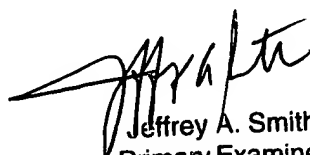
Yoshino, Motohiro, JP02001312283A, November 9, 2001, discloses a music distribution system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG
Patent Examiner
December 14, 2005



Jeffrey A. Smith
Primary Examiner